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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,519	01/12/2004	Anatol Wizenberg	1003-04	1394
35811	7590	07/14/2006	EXAMINER	
IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP 1650 MARKET ST SUITE 4900 PHILADELPHIA, PA 19103			NGUYEN, KIEN T	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/755,519

Applicant(s)

WIZENBERG ET AL.

Examiner

Kien T. Nguyen

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7-13, and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 7, 9-12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Voorhis in view of Pembridge U.S. Patent 3,199,867.

Van Voorhis disclosed a toy comprising a shaft (1); a roller (2) attached to a first end of the shaft; a housing (5) attached to a second opposing end of the shaft; a front end (horse's mouth) coupled to the housing; a sound pad (8) coupled to the housing; the roller comprising at least one wheel (2) and an axle (3); at least one decorative member (strap) coupled to the housing. It is noted that Van Voorhis failed to specifically teach decorative member being coupled to the housing as being interchangeable and to resemble a jet, an automobile, and a wing as set forth in these claims. However, Pembridge disclosed a riding game device having at least one interchangeable decorative member (3), and other members resembling a plane (5) or a boat (4) as shown in Fig. 4. Accordingly, it would have been obvious to one of ordinary skill in the art to modify the housing of Van Voorhis with a plurality of interchangeable decorative members to provide different looks for accommodating different users.

Claims 4, 8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Voorhis modified by Pembridge as applied to claim 1 above, and further in view of Thornell.

It is noted that the combination of Van Voorhis and Pembridge failed to teach the use of a light pad coupled to the housing as set forth in claim 4; and a handle coupled to the housing as set forth in claims 8 and 13. However, Thornell disclosed a rocking toy comprising a light pad (7) coupled to the housing (6) of the toy, and a handle (curved handle as shown in Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify the housing (5) of Van Voorhis as modified by Pembridge with the light pad (7) and the handle as taught by Thornell for the purpose of attracting attention of the user and controlling the head of the horse with ease.

Allowable Subject Matter

Claims 14-17 are allowed.

Response to Arguments


Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571,272-1000.


Kien T. Nguyen
Primary Examiner
Art Unit 3711

Ktn